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Liggon-Redding v. Congress Title

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 07-1426

E. LIGGON-REDDING,

Appellant

v.

CONGRESS TITLE, Fidelity National
Title Ins. Co.; KEY PROPERTIES
GMAC REALTY

On Appeal From the United States District Court
For the District of New Jersey
(D.C. Civ. No. 06-cv-03127)
District Judge: Honorable Jerome B. Simandle

Submitted For Possible Dismissal Under 28 U.S.C. § 1915(e)(2)(B)
March 29, 2007

BEFORE: RENDELL, SMITH and JORDAN, CIRCUIT JUDGES

(Filed April 25, 2007)

OPINION

PER CURIAM

E. Ligon-Redding appeals from an order of the United States District Court for the District of New Jersey that dismissed her complaint without prejudice for lack of

subject matter jurisdiction. For the reasons stated herein, we will dismiss this appeal under 28 U.S.C. § 1915(e)(2)(B).

Liggon-Redding filed a complaint alleging fraud in the sale of her home. She indicated on a cover sheet that she was bringing the case as a tort action, and that all parties were residents of New Jersey. Following defendants' motion to dismiss and further filings from both parties regarding the motion, the District Court determined that it lacked subject matter jurisdiction to consider the complaint. Although the cover sheet for her complaint indicated that the court had federal question jurisdiction, Liggon-Redding failed to cite any federal statute or constitutional provision in support of her complaint. The District Court noted that Liggon-Redding cited some federal criminal statutes in her response to the motion to dismiss, but that none of those statutes created a private right of action, and that she had not moved to amend her complaint to add claims arising under those statutes. The Court also noted that Liggon-Redding's complaint could in no way be construed to raise a civil RICO claim.¹

On appeal, Liggon-Redding argues that she did indeed raise a civil RICO claim, and that she did not know she had to amend her complaint, because "informing the Court of the heinous acts of the Defendants was enough." See Notice of Appeal. We disagree. "In order to plead a violation of RICO, plaintiffs must allege (1) conduct (2) of an enterprise (3) through a pattern (4) of racketeering activity." Lum v. Bank of America,

¹ Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. § 1962.

361 F.3d 217, 223 (3d Cir. 2004). Liggon-Redding’s complaint, although it mentioned the word “fraud,” certainly did not put anyone on notice that she was raising a civil RICO claim. Where the absence of subject matter jurisdiction is clear from the face of a complaint, the District Court need not give a plaintiff the opportunity to amend the complaint before dismissing it. See Miklavic v. USAir, 21 F.3d 551, 557-58 (3d Cir. 1994).

We therefore will dismiss this appeal pursuant to 28 U.S.C. § 1915(e)(2)(B).²

² Liggon-Redding’s motion for a “restraining order” or stay, and her motion for appointment of counsel, are denied as moot.